

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED
2021 MAY -4 PM 4:02

LANI E. CLARK,
PLAINTIFF,

V.

LOIS KOLKHORST,
DEFENDANT.

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CAUSE NO. 1:19-CV-198

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY

[Signature]
CLERK

ORDER

Before the court in the above-styled and numbered cause of action are Defendant Lois Kolhorst's Notice of Possible Mootness filed February 23, 2021 (Doc. #66) and Plaintiff Lani E. Clark's response filed February 25, 2021 (Doc. #67).

This case was referred to a United States Magistrate Judge for resolution of nondispositive motions and report and recommendation on dispositive motions. *See* 28 U.S.C. § 636(b)(1)(A)-(B); Fed. R. Civ. P. 72; Loc. R. W.D. Tex. App'x C, R. 1(c)-(d).

The magistrate judge signed an order and report and recommendation on April 20, 2021 (Doc. #69) recommending that the court find that the case is not moot.

A party may serve and file specific written objections to the proposed findings and recommendations of a magistrate judge within 14 days after being served with a copy of the report and recommendation and thereby secure *de novo* review by the district court. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a report and recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *See Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc).

The record shows that all parties had notice of the report and recommendations by April 20, 2021, and that objections were due on or before May 4, 2021. Kolkhorst filed objections to the report and recommendation on May 3, 2021 (Doc. #70). In light of the objections, the court undertakes a *de novo* review of the record and applicable law.

The court is of the opinion that the objections do not raise issues that were not adequately addressed in the report and recommendation. Therefore, finding no error, the court accepts and adopts the report and recommendation filed in this case for substantially the reasons stated therein. Accordingly,

IT IS ORDERED that Kolkhorst's objections (Doc. #70) to the report and recommendation of the United States Magistrate Judge are **OVERRULED**.

IT IS FURTHER ORDERED that the report and recommendation of the United States Magistrate Judge (Doc. #69) is **ACCEPTED AND ADOPTED** by the court. The court finds that there remains a live controversy in which the parties have an interest. Accordingly, the court finds that the case is not moot. The court will reset this case for bench trial at a later date.

The parties are reminded that no additional pleadings or motions shall be filed in this case without leave of court except those that concern settlement, dismissal, or consent for a magistrate judge to conduct all proceedings, including trial, and order the entry of judgment.

SIGNED this 4th day of May, 2021.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE